

MINUTES

REGULAR MEETING OF THE CITY COUNCIL

CITY OF MEMPHIS

February 21, 2006

3:30 P.M. SCHEDULED SESSION

4:37 P.M. MEETING COMMENCED

ROLL CALL: Dedrick Brittenum, Joe Brown, Carol Chumney, Edmund Ford, Barbara Swearengen Holt, E. C. Jones, Myron Lowery, Tom Marshall, Scott McCormick, Rickey Peete, Jack Sammons, Brent Taylor and Chairman TaJuan Stout Mitchell

**THE MEETING WAS CALLED TO ORDER
BY THE SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Jeremy Lawson, a Senior at Treadwell High School. Councilman Ford presented Jeremy Lawson with a certificate naming him Chaplain of the day.

The original of the ordinances, resolutions and documents relating to each item is filed in the office of Council Records and on microfilm in the office of Records Management, Room 2B-08. The original documents shall control in the event of any conflict between the description in these minutes and the original documents.

25. APPOINTMENTS

PENSION BOARD

Appointment

Michael Jubirt

Held to March 7, 2006

CONSENT AGENDA – Items 1-13 & 44&45 may be acted upon by one motion. SEE PAGE 1824 FOR ROLL CALL

1. **ORDINANCE AMENDING THE CITY OF MEMPHIS CODE OF ORDINANCES, CHAPTER 33 ARTICLE IV, DIVISION 3, STORM WATER ENTERPRISE FUND, TO REVISE THE RATE SCHEDULE AND TO SPECIFY AN IMPLEMENTATION DATE, UP FOR F I R S T READING.**

Ordinance No. 5157

Director of Public Works recommends approval

APPROVED, on First reading

2. **ORDINANCE REZONING THE NORTHEAST CORNER OF MILL AVENUE AND SEVENTH STREET, CONTAINING 0.78 ACRE IN THE MIXED USE(MU) & MODERATE DENSITY RESIDENTIAL (MDR) DISTRICTS, UP FOR F I R S T READING.**

Ordinance No. 5158
Case No. Z 05-137

APPROVED, on First reading

3.
- ORDINANCE REZONING THE NORTHEAST CORNER OF MONROE AVENUE AND AVALON STREET, CONTAINING 0.20 ACRE IN THE LOCAL COMMERCIAL (C-L) DISTRICT, UP FOR S E C O N D READING.**

Ordinance No. 5154

Case No. Z 05-128

APPROVED, on Second reading

4.
- ORDINANCE REZONING +200 FEET EAST OF RIDGEWAY ROAD; +200 FEET SOUTH OF WINCHESTER ROAD, CONTAINING 19.452 ACRES IN THE HIGHWAY COMMERCIAL (C-H) DISTRICT, UP FOR S E C O N D READING.**

Ordinance No. 5155

Case No. Z 05-136

APPROVED, on Second reading

5.
- ORDINANCE REZONING THE EAST SIDE OF AIRWAYS BOULEVARD; +/-2,240 FEET NORTH OF STATELINE ROAD, CONTAINING 4.38 ACRES IN THE SINGLE FAMILY RESIDENTIAL (R-S8) DISTRICT, UP FOR S E C O N D READING.**

Ordinance No. 5156

Case No. Z 05-138

APPROVED, on Second reading

6.
- RESOLUTION ACCEPTING AFTON GROVE P.D., PHASE 3, AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 01-319cc

(Contract No. CR-4907)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the north side of Acadia Place, 507.47 feet east of Canoe Ridge Lane. The standard improvement contract was approved on November 23, 2004. Resolution also authorizes the release of the letter of credit in the amount of \$19,000.00. This action is subject to County approval.

City Engineer recommends approval

APPROVED

7.
- RESOLUTION ACCEPTING BELVEDERE COLLECTION, AND AUTHORIZING RELEASE OF BOND.**

(Contract No. CR-4949)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the northwest corner of Union Avenue and Belvedere Boulevard. The standard improvement contract was approved on June 21, 2005. Resolution also authorizes the release of the certificate of deposit (No. 173643562) in the amount of \$29,000.00.

City Engineer recommends approval

APPROVED

8.
- RESOLUTION ACCEPTING BARKSDALE P.D., AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 03-350

(Contract No. CR-4870)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the east side of Barksdale Street, 165.28 feet north of Evelyn Street. The standard improvement contract was approved on May 18, 2004.

Resolution also authorizes the release of the Letter of Credit (No. 801) in the amount of \$63,700.00.

City Engineer recommends approval

APPROVED

9. **RESOLUTION ACCEPTING STONE SHADOWS P.D., AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 04-308cc
(Contract No. CR-4918)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the north side of Holmes Rd. and east of Riverdale Rd. The standard improvement contract was approved on January 4, 2005. Resolution also authorizes the release of the letter of credit in the amount of \$13,000.00. This action is subject to County approval.

City Engineer recommends approval

APPROVED

10. **RESOLUTION APPROVING FINAL PLAT OF NORTH HOUSTON LEVEE RETAIL CENTER C-P, PHASE 2.**

Case No. Z 99-105cc

Resolution approving the final plat located at the terminus of Macon Road and Houston Levee. Cost of the required improvements to be borne by the Developer.

City Engineer recommends approval

APPROVED

11. **RESOLUTION ACCEPTING STONE SHADOWS EAST PD, AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 04-348cc
(Contract No. CR-4919)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the north side of Holmes Road, west of Gertrude Drive. The standard improvement contract was approved on January 4, 2005. Resolution also authorizes the release of the letter of credit in the amount of \$18,000.00. This action is subject to County approval.

City Engineer recommends approval

APPROVED

12. **NOTATIONS FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASES WERE HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

- A. Case No. PD 05-380 – Fox Meadows Villas PD
- B. Case No. S 05-081 – Cordova Oaks Subdivision
- C. Case No. SAC 05-625 – Kentucky Street & Railroad Avenue Intersection
- D. Case No. PD 04-370cc – Fountain Brook PD

Public Hearing Set for March 7, 2006

13. **RESOLUTION APPROVING FEBRUARY 25, 2006 AS “SHELBY BERRYHILL DAY IN MEMPHIS, TN”.**

APPROVED

44. **RESOLUTION APPROVING FINAL PLAT OF OLD OAKS SUBDIVISION.**
Case No. S 05-059cc
Contract No. CR-4996

Resolution approves the final plat located on Montorey Road, east of Red-Hooker Road. Cost of the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

APPROVED

45. **ORDINANCE REZONING THE SOUTHEAST CORNER OF PENNSYLVANIA AVENUE AND ILLINOIS AVENUE, CONTAINING 2.02 ACRES IN THE HEAVY INDUSTRIAL (I-H) DISTRICT, UP FOR F I R S T READING.**
Ordinance No. 5159
Case No. Z 05-140

APPROVED, on First reading

ROLL CALL CONSENT ITEMS

MOTION: McCormick
SECOND: Jones
AYES: Brittenum, Brown, Ford, Holt, Jones, Lowery, McCormick, Peete and
Chairman Mitchell
Chumney abstained
Marshall, Sammons and Taylor did not cast a vote

APPROVED

MLGW FISCAL CONSENT – Items 14-22 may be acted upon by one motion

Chairman Mitchell recognized the following person from the audience:

Odell Horton, 220 S. Main St., Mphs, TN 38103

14. **RESOLUTION APPROVING RATIFICATION OF AN EXPEDITED PROCUREMENT REQUEST FOR CONTRACT NO. 10718, LONG AND SHORT TERM DISABILITY, TO UNUMPROVIDENT CORPORATION, IN THE FUNDED AMOUNT OF \$1,539,901.79.**

APPROVED

15. **RESOLUTION APPROVING CHANGE NO. 5 TO CONTRACT NO. 10705, ORACLE SOFTWARE LICENSE AND SERVICE AGREEMENT, WITH ORACLE INC., IN THE FUNDED AMOUNT OF \$107,097.70. (THIS COVERS ADDITIONAL SOFTWARE LICENSES AND SUPPORT FOR SELF-SERVICE TUTOR AND IRECRUITMENT FOR THE IMPLEMENTATION OF E-BUSINESS SUITE SOFTWARE.)**

APPROVED

16. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11016, DRUG AND ALCOHOL COLLECTION PROVIDER, WITH TRUE TEST COLLECTION, IN AN ESTIMATED FUNDED AMOUNT OF \$30,026.00. (THIS RENEWS THE CONTRACT FOR THE FIRST TERM BEGINNING MAY 6, 2006 TO MAY 5, 2007.)**

APPROVED

17. **RESOLUTION AWARDDING CONTRACT FOR POLYETHYLENE GAS FITTINGS TO CONTINENTAL INDUSTRIES IN THE AMOUNT OF \$153,582.50.**

APPROVED

18. **RESOLUTION AWARDING CONTRACT FOR TAP KITS AND TERMINAL KITS TO TENNESSEE VALLEY ELECTRIC SUPPLY COMPANY IN THE AMOUNT OF \$734,307.50.**

APPROVED

19. **RESOLUTION AWARDING CONTRACT FOR CAPACITOR CANS AND BANKS TO TENNESSEE VALLEY ELECTRIC SUPPLY COMPANY IN THE AMOUNT OF \$44,915.00.**

APPROVED

20. **RESOLUTION APPROVING RATIFICATION OF EMERGENCY PURCHASE ORDER NO. 126776 FOR LICENSES AND MAINTENANCE OF NOVELL SOFTWARE TO NOVELL, INC. IN THE AMOUNT OF \$258,809.00.**

APPROVED

21. **RESOLUTION AWARDING CONTRACT FOR ONE 25.8 KV, 40KAIC POWER CIRCUIT BREAKER TO SIEMENS PT & D, C/O UTILITY SALES AGENCY, IN THE AMOUNT OF \$34,995.00.**

APPROVED

22. **RESOLUTION CANCELING PURCHASE ORDER NO. 123900 FOR PERSONAL AND LAPTOP COMPUTERS WITH TRINITY TECHNOLOGY, INC. AND AWARDING CONTRACT TO THOMAS CONSULTANTS, INC. IN THE AMOUNT OF \$1,974,572.00.**

APPROVED

ROLL CALL MLGW FISCAL CONSENT ITEMS

MOTION: Brown – Send Items 14, 15, 20 and 22 back to Committee

FAILED, for the lack of a second

- MAIN MOTION: McCormick
SECOND: Sammons
AYES: Brittenum, Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick, Sammons, Taylor and Chairman Mitchell
NAYS: Brown
Peete did not cast a vote

APPROVED

23. **RESOLUTION HONORING THE STUDENTS OF THE MEMPHIS IN MAY STUDENT EXCHANGE PROGRAM.**

MOTION: Lowery
SECOND: McCormick

APPROVED, by unanimous voice vote

24. **RESOLUTION HONORING PASTOR LYNNWOOD DILLARD AND MICKELL LOWERY FOR BEING NAMED TO EBONY MAGAZINE’S TOP 30 UNDER 30.**

APPROVED, by unanimous voice vote

26. **ORDINANCE AMENDING CHAPTER 41, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO UPDATE REGULATIONS FOR WRECKERS AND TOWING OPERATORS WITHIN THE CITY OF MEMPHIS, UP FOR T H I R D AND F I N A L READING.** (Held from 10/11; 10/25;11/1; 12/6; 1/03; 1/17;2/7)

Ordinance No. 5133

Held to March 7, 2006

27. **RESOLUTION APPROVING THE CONVEYANCE OF CITY OWNED PROPERTY LOCATED ON THE WEST SIDE OF NORTH HOLLYWOOD, NORTH OF CHELSEA, TO THE CITY OF MEMPHIS DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT.**

Resolution approved the conveyance of five parcels 40” X 150’ located on the west side of North Hollywood, north of Chelsea Avenue, acquired by the City of Memphis, in Tax Sale #10 in 1997. Property identified by the Shelby County Assessor’s Office as Ward 042, Block 007, Parcels 011, 012, 013, 014, and 015. The City of Memphis Division of Housing and Community Development has requested said parcels with improvements to be used for Code Enforcement and a Resource Center for CDC’s. Per ordinance, the transfer of the subject parcel is NOT subject to being held over and Resolution approval shall be deemed as approval of transfer. Resolution also authorizes the Mayor to execute the necessary documents in connection with the transfer.

Director of General Services and Housing and Community Development recommend approval

MOTION: Ford
SECOND: Marshall
AYES: Chumney, Ford, Holt, Jones, Marshall, McCormick, Peete, Sammons, Taylor, and Chairman Mitchell
 Brittenum, Brown and Lowery did not cast a vote

APPROVED

28. **RESOLUTION APPROVING RELEASE OF CAPITAL IMPROVEMENT FUNDS FOR SETTLEMENT OF FED EX FORUM LAWSUIT AND PAYMENT OF ADMINISTRATIVE EXPENSES OF THE NEW MEMPHIS ARENA PUBLIC BUILDING AUTHORITY OF MEMPHIS AND SHELBY COUNTY.**

Friendly Amendment: We will take every step to make sure that monies allocated will go to the correct local sources and the disciplines that are represented here in Memphis

MOTION: Marshall
SECOND: McCormick
AYES: Brittenum, Ford, Holt, Marshall, McCormick, Peete, Sammons and Chairman Mitchell
NAYS: Chumney, Jones and Taylor
 Brown and Lowery did not cast a vote

APPROVED, as amended

29. **RESOLUTION APPROPRIATING \$375,000.00 IN G.O. BONDS GENERAL IN CIP PROJECT PD02002-HICKORY HILL POLICE PRECINCT TO PROVIDE NETWORK AND TELEPHONE CONNECTIVITY.**

MOTION: Chumney
SECOND: Holt
AYES: Brittenum, Chumney, Ford, Holt, Jones, Marshall, McCormick, Peete, Sammons, Taylor and Chairman Mitchell
 Brown and Lowery did not cast a vote

APPROVED

30. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$10,000.00 FROM STATE OF TENNESSEE GOVERNOR'S HIGHWAY SAFETY OFFICE FOR EXPENDITURES RELATED TO THE GHSO NETWORK COORDINATOR. RESOLUTION ALSO AMENDS FY 2006 OPERATING BUDGET TO ESTABLISH AND APPROPRIATE GRANT FUNDS IN THE AMOUNT OF \$10,000.00.**

MOTION: Chumney
SECOND: Jones
AYES: Brittenum, Brown, Chumney, Ford, Holt, Jones, Marshall, McCormick, Peete, Sammons, Taylor and Chairman Mitchell
Lowery did not cast a vote

APPROVED

31. **RESOLUTION AMENDING THE FY06 CAPITAL IMPROVEMENT BUDGET BY AN UNENCUMBRANCE OF AN APPROPRIATION OF \$1,823,016.00 FUNDED BY GO BONDS – GENERAL IN CIP PROJECT #PS02003, CONVENTION CENTER DUE TO PREVIOUS CONTRACT CANCELLATION.**

Resolution also establishes an allocation and appropriates \$5,596,675.00 funded by GO Bonds General to CIP Project #PS02003, Convention Center.

MOTION: Marshall
SECOND: Holt
AYES: Brittenum, Chumney, Ford, Holt, Jones, Marshall, McCormick, Peete, Sammons, Taylor and Chairman Mitchell
Brown and Lowery did not cast a vote

APPROVED

33. **RESOLUTION SUBMITTING A GRANT APPLICATION TO THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION STATE INDUSTRIAL HIGHWAY PROGRAM FOR COSTS RELATED TO THE REALIGNMENT OF RIVERGATE ROAD IN PREPARATION FOR THE EXPANSION OF THE CANADIAN NATIONAL RAILWAY COMPANY.**

MOTION: Brittenum
SECOND: Peete
AYES: Brittenum, Brown, Chumney, Ford, Holt, Jones, Lowery, McCormick, Peete, Sammons, Taylor and Chairman Mitchell
Marshall did not cast a vote

APPROVED

34. **RESOLUTION SUBMITTING A GRANT APPLICATION TO THE STATE OF TENNESSEE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT FAST TRACK INFRASTRUCTURE DEVELOPMENT PROGRAM FOR AN AMOUNT NOT TO EXCEED \$750,000.00 FOR INFRASTRUCTURE IMPROVEMENT AND REALIGNMENT ALONG RIVERGATE ROAD IN PREPARATION FOR THE EXPANSION OF THE CANADIAN NATIONAL RAILWAY COMPANY.**

MOTION: Brittenum
SECOND: Brown
AYES: Brittenum, Brown, Chumney, Ford, Holt, Jones, Lowery, McCormick, Peete, Sammons, Taylor and Chairman Mitchell
Marshall did not cast a vote

APPROVED

35. **RESOLUTION APPROVING A USE VARIANCE LOCATED ON THE SOUTHEAST CORNER OF FRONT STREET AND KEEL AVENUE, CONTAINING 1.04 ACRES IN THE MIXED USE (MU) DISTRICT.**

Case No. UV 05-08

Applicant: Gary Meloni, Jr.
S R Consulting (Cindy Reaves) – Representative

Request: Non-hazardous chemical processing

LUCB and OPD recommendation: APPROVAL, with conditions

No Opposition at LUCB; No Public Hearing Required

MOTION: Peete
SECOND: Jones
AYES: Brittenum, Brown, Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick,
Peete, Sammons, Taylor and Chairman Mitchell

APPROVED, as amended in Committee

36. **RESOLUTION APPROVING A USE VARIANCE LOCATED ON THE WEST SIDE OF EXOCET DRIVE; +180 FEET NORTH OF FISCHER STEEL ROAD, CONTAINING 1.76 ACRES IN THE LIGHT INDUSTRIAL (I-L) & HEAVY INDUSTRIAL (I-H) DISTRICTS.**

Case No. UV 06-01

Applicant: Gameday Baseball Holdings
Davis Engineering – Representative

Request: Use Variation to permit an off-premise sign advertising the adjoining 1st Tennessee Ballfields Complex utilizing the former Bogey’s Entertainment Complex Sign that currently exists on Lot 2 of the East Memphis Industrial District Subdivision

LUCB and OPD recommendation: APPROVAL, with conditions

No Opposition at LUCB; No Public Hearing Required

MOTION: Peete
SECOND: Jones
AYES: Brittenum, Brown, Ford, Holt, Jones, Lowery, Marshall, Peete, Sammons,
Taylor and Chairman Mitchell
NAYS: McCormick
Chumney abstained

APPROVED

Chairman Mitchell stated that the item above is advertising the ball park only

37. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTHWEST CORNER OF POPLAR AVENUE AND REDDOCH STREET, CONTAINING 0.74 ACRE IN THE SINGLE FAMILY RESIDENTIAL (R-S10) DISTRICT. (Held from 12/20;2/7)**

Case No. PD 05-362
(Companion Case SAC 05-618)

Chairman Mitchell recognized the following persons from the audience:

Rick Winchester, Kelly Truitt, Dennis Bayer, Nathan Steppach, William Thomas

Applicant: William H. Thomas, Jr.
ETI Corporation (Dan Graddy) – Representative

Request: Two-story office building, occupied by limited General Office (O-G) uses, including a bank

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION

MOTION: Peete

SECOND: Ford

AYES: Brittenum, Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete, Sammons, Taylor and Chairman Mitchell
Brown did not cast a vote

APPROVED

38. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED ON REDDOCH STREET, A SEGMENT EXTENDING NORTHWARD \pm 140 FEET FROM POPLAR AVENUE, CONTAINING 2,651 SQUARE FEET IN THE SINGLE-FAMILY RESIDENTIAL (R-S10) DISTRICT AND 1,933 SQUARE FEET IN THE MULTI-FAMILY RESIDENTIAL (R-MM) DISTRICT.** (Held from 12/20;2/7).

Case No. SAC 05-618
(Companion Case: PD 05-362)

Chairman Mitchell recognized the following persons from the audience:

Rick Winchester, Kelly Truitt, Dennis Bayer, Nathan Steppach, William Thomas

Applicant: William H. Thomas, Jr.
ETI Corporation (Dan Graddy) – Representative

Request: Close and Vacate Street Right-of-Way

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION

MOTION: Peete

SECOND: Ford

AYES: Brittenum, Chumney, Ford, Jones, Marshall, McCormick, Peete, Sammons, and Taylor

NAYS: Holt and Lowery
Mitchell abstained
Brown did not cast a vote

APPROVED

39. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE SOUTH SIDE OF QUINCE ROAD; +600 FEET WEST OF KIRBY PARKWAY, CONTAINING 5.63 ACRES IN THE P.D. 02-310 KIRBY GATE SOUTH PLANNED DEVELOPMENT.**

Case No. PD 05-355

Applicant: K G Land LLC
Fisher & Arnold (Jud Te Paske) – Representative

Request: Amend Parcel 4 to permit Jaguar/Land Rover Dealership with support facilities

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Peete

SECOND: Jones

AYES: Brittenum, Brown, Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick,

Peete, Sammons and Chairman Mitchell
Taylor did not cast a vote

APPROVED, as amended in Committee

40. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE EAST SIDE OF GRAHAM AVENUE; +825.6 FEET NORTH OF GIVEN AVENUE, CONTAINING 2.216 ACRES IN THE SINGLE FAMILY RESIDENTIAL (R-S6) DISTRICT.**

Case No. PD 05-358

Chairman Mitchell recognized the following persons from the audience:

David Bray, Bryan Ford, Charles Fineberg

Applicant: Mars Development, LLC
 The Bray-Davis Firm, LLC – Representative

Request: A planned development to permit ten (10) single family detached lots (Minimum 1 lot size: 5,557 sq. ft.)

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Taylor – Reduce to 9 lots and combine lots 1 and 2 so that that would preserve the streetscape of Graham and the additional homes would be behind that

SECOND: Holt

AYES: Brittenum, Chumney, Holt, Lowery and Chairman Mitchell

NAYS: Brown, Ford, Jones, Marshall, McCormick, Peete, Taylor and Sammons

Friendly Amendment: Off Street Guest Parking

MOTION: Brittenum

Councilman Brittenum asked Taylor (the maker of the motion if would he accept Off Street Parking as a Friendly Amendment. Taylor accepted. After a statement from David Bray concerning the parking, Councilman Brittenum withdrew his friendly amendment

FRIENDLY AMENDMENT WITHDRAWN

Special Item #1 was set up for Taylor’s motion

FAILED, Special Item #1

MOTION: Peete – Reduce the number of lot to 8, combine lots 1 & 2 and 9 &10 and adjust the remaining lots to be at least a minimum of 7,000 feet

SECOND: Taylor

MOTION: Sammons – Move previous question

Councilman Taylor stated that pursuant to the Council Rules, Council members who had already sought recognition prior to the question being called do have an opportunity to speak. Chairman Mitchell continued to let the Council members speak

AYES: Brittenum, Chumney, Holt, Lowery, Peete and Taylor

NAYS: Brown, Ford, Jones, Marshall, McCormick and Sammons
 Mitchell abstained

Special Item #2 was set up for Peete’s motion

FAILED, Special Item #2

MOTION: Peete - Reduce to 4 lots

SECOND: Ford

MOTION WITHDRAWN

MOTION: Marshall – Call for the question

MAIN MOTION: Peete

SECOND: McCormick

AYES: Brittenum, Lowery and Taylor

NAYS: Brown, Chumney, Ford, Holt, Jones, Marshall, McCormick, Peete, Sammons, and Chairman Mitchell

FAILED

41. **RESOLUTION APPROVING A SUBDIVISION APPEAL LOCATED ON THE NORTH SIDE OF SMITHSON TRAIL, CONTAINING 13.17 ACRES IN THE AGRICULTURAL (AG) DISTRICT.** (Held from 2/7)

Case No. S 05-061cc

Chairman Mitchell recognized the following persons from the audience:

Frank Palumbo, Fred Elam

Applicant/Appellant: Fred Elam

Frank P. Palumbo, Jr. – Representative

Request: Appeal to overturn action of the Land Use Control Board requiring the dedication and installation of dry sanitary sewer lines and the dedication and improvement of a stub street to the north property line

LUCB and OPD recommendation: APPROVAL, subject to 4 variances, 16 conditions and 3 design changes

MOTION: Peete

SECOND: Holt

AYES: Ford, Lowery, Peete and Taylor

NAYS: Brittenum, Chumney, Holt, Marshall, McCormick and Chairman Mitchell
Brown, Jones and Sammons did not cast a vote

FAILED

42. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED ON THE SOUTH SIDE OF GEORGIA AVENUE; +150 FEET EAST OF S. MAIN STREET, CONTAINING 20,473 SQUARE FEET IN THE STREET/ALLEY ~ SOUTH MAIN (SM) DISTRICT.**

Case No. SAC 04-619

Applicant: Front Row Development, LLC

Tetra Tech, Inc./Frank Gianotti – Representative

Request: Time Extension for Street & Alley Closure Approved January 4, 2005 for an additional one year period

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Peete

SECOND: Holt

AYES: Chumney, Ford, Holt, Lowery, Marshall, McCormick, Peete, Taylor and Chairman Mitchell

Brittenum, Brown, Jones and Sammons did not cast a vote

APPROVED

43. **RESOLUTION SUPPORTING A LIVING WAGE.**

Chairman Mitchell recognized the following persons from the audience:

Gerald Bettice, 4043 Allison, Mphs, TN 38122
Earline Duncan, 166 Lawndale Drive, Mphs, TN 38109

MOTION: Lowery – Part-time employees also be paid \$10 per hour
SECOND: Brown
AYES: Brown, Ford, Holt, Lowery and Peete
NAYS: Brittenum, Marshall, Taylor and Chairman Mitchell
 McCormick and Chumney abstained
 Jones and Sammons did not cast a vote

Special Item #3 was set up for this motion

APPROVED, Special Item #3

MOTION: Holt – The Personnel Committee will review and consider a living wage
 for part-time employees with a recommendation to come forth by
 September 1, 2006 and that portion that pertains to a living wage for part-time
 employees will be deferred until that time
SECOND: Marshall
AYES: Brittenum, Brown, Chumney, Ford, Holt, Lowery, Marshall, McCormick, Peete,
 Taylor and Chairman Mitchell
 Jones and Sammons

Special Item #4 was set up for this motion

APPROVED, Special Item #4

MAIN MOTION: Marshall
SECOND: Holt
AYES: Brittenum, Brown, Chumney, Ford, Holt, Lowery, Marshall, McCormick,
 Peete and Chairman Mitchell
NAYS: Taylor
 Jones and Sammons did not cast a vote

APPROVED, as amended

32. **ORDINANCE REZONING THE NORTHEAST CORNER OF LEVI ROAD AND
LEECH ROAD, CONTAINING 5.0 ACRES IN THE TOWNHOUSE RESIDENTIAL (R-
TH) DISTRICT, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5153
Case No. Z 05-127

Applicant: Running Bear Construction

Request: Single Family Residential (R-S6) District

LUCB and OPD recommendation: APPROVAL

MOTION: Taylor
SECOND: Holt
AYES: Brittenum, Brown, Chumney, Ford, Holt, Lowery, Marshall, McCormick,
 Taylor and Chairman Mitchell
 Jones, Peete and Sammons did not cast a vote

APPROVED

46. **RESOLUTION APPROVING THE SELECTION OF MR. ARMSTEAD WARD FOR THE POSITION OF VICE PRESIDENT OF HUMAN RESOURCES AT MLGW, IN ACCORDANCE WITH SALARY NO. S-77184 IN THE AMOUNT OF \$147,014.40 ANNUALLY.**

Chairman Mitchell recognized the following persons from the audience:

Joseph Lee, 220 S. Main, Mphs, TN 38103
Armstead Ward, 220 S. Main, Mphs, TN 38103
Nick Clark, 220 S. Main, Mphs, TN 38103

MOTION: Ford
SECOND: Taylor
AYES: Brittenum, Chumney, Ford, Holt, Lowery, Marshall, Peete and Taylor
NAYS: Brown, McCormick and Chairman Mitchell
 Jones and Sammons did not cast a vote

APPROVED

MINUTES

Approval of the Minutes of the regular meeting of February 7, 2006 with the following motion:

Ms. Holt wanted language added to Item #30, Ord. No. 5136, Case No. ZTA 05-001cc, that states to review opinions and give copies of opinions to Joe Cooper and Randall Swaney

MOTION: Holt
SECOND: Chumney, Ford, Holt, Marshall, McCormick, Taylor and Chairman Mitchell
 Brittenum, Brown, Jones, Lowery, Peete and Sammons did not cast a vote

APPROVED, as amended

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

ADJOURNED MEETING AT 7:45 P.M.

Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records